

### **Remarks**

This Amendment is in response to the Office Action mailed July 1, 2005. Claims 13-19 and 29-41 are pending in this application. Claims 13-19 and 29-41 have been subjected to a restriction requirement, and Claims 29-41 have been withdrawn from consideration by the Examiner. Claims 13-19 have been rejected.

Initially, Applicants note that the original continuation application papers filed April 2, 2004 included claims 1-42, although claims 2-42 were cancelled in the accompanying transmittal document. However, when new claims were presented after filing, the later amendments (filed 7/21/2004 and 5/25/2005) did not start with the next highest number (43). Instead, the new claims started back at claim 2 and worked up all over again. The pending Claims 13-19 and 29-41, have no relationship to the claims originally numbered at 13-41 in the original continuation application papers filed April 2, 2004. While this claim numbering has not been objected to, Applicant's would like to clear up any potential confusion at this time. In order to do so, Applicants have herein canceled all prior Claims 1-42, and present herein new Claims 43-62 as described below.

Applicants have amended and rewritten prior pending Claims 13, 14, 16-18 and 29-36 as new Claims 43-62. The single independent Claim 43 in the new claim set corresponds to prior pending Claim 13, amended and rewritten to incorporate the former recitations of prior pending Claims 15 and 19. New Claims 44, 45, 46 and 47 in the new claim set correspond to prior pending Claims 14, 16, 17 and 18 respectively. Thus, all of these Claims 43-47 were included in the elected and examined claim set (prior pending Claims 13-19). Further, Applicants have amended and rewritten withdrawn Claims 29-36 as new Claims 48-55. Withdrawn Claims 37-41 have not been re-written, as it is

Applicants' intent to canceled the same. Finally, Applicants have added new claims which have not previously been presented in this application as new Claims 56-62, which are dependent upon one of the new Claim 44, 46 and 47 (prior pending Claims 14, 17 and 18 respectively).

In view of the new restriction requirement, Applicants elect, with traverse, to proceed with Group I, prior pending Claims 13-19, now rewritten as new Claims 43-47.

The Examiner's restriction requirement states that the application contains claims directed to the following patentably distinct inventions:

Group I: prior pending Claims 13-19 (now new Claims 43-47), drawn to a mailpiece feeder assembly, classified in class 414, subclass 796.9;

Group II: prior pending Claims 29-35, [36] and 38 (now new Claims 48-55, excluding Claim 38)), drawn to a mailpiece feeder assembly, classified in class 414, subclass 796.5; and

Group III: prior pending Claims 37 and 39-41 (now canceled), drawn to a mailpiece feeder assembly, classified in class 414, subclass 797.

For the following reasons, Applicants respectfully submit that the Examiner's restriction requirement is improper, respectfully request reconsideration of the same, and respectfully request that Claims 48-55 (prior pending Claims 29-36) be examined along with elected Claims 43-47 (prior pending Claims 13-19).

The Examiner states that Inventions I and II are related as combination and subcombination, and that inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other

combinations (MPEP §806.05(c)). The Examiner then alleges that the combination as claimed does not require the particulars of the subcombination as claimed because claims 29 (now Claim 48) and 37 (now canceled) serve as evidence that the combination does not require the particulars of the subcombination for patentability. This is clearly erroneous at least with respect to Claim 29 (now Claim 48).

Claim 48 (prior pending Claim 29) is dependent upon Claim 43 (prior pending Claim 13) and thus incorporates Claim 43 (prior pending Claim 13) therein word for word. As such, the combination Claim 48 (prior pending Claim 29) as claimed necessarily requires the particulars of the subcombination Claim 43 (prior pending Claim 13), again word for word. Therefore, the Examiner has failed to establish two way distinction between Group I and Group II, and restriction is improper.

The Examiner alleges that Claim 13 (now Claim 43) is B<sub>SP</sub> and Claim 29 (now Claim 48) is AB<sub>BR</sub>. This is clearly erroneous. Since Claim 29 (now Claim 48) is dependent upon B<sub>SP</sub> Claim 13 (now Claim 43) and thus wholly incorporates B<sub>SP</sub> Claim 13 (now Claim 43) word for word, Claim 29 (now Claim 48) cannot be AB<sub>BR</sub>, and necessarily must be AB<sub>SP</sub>, as B is identical in both claims. Pursuant to MPEP §806.05(c)(II), where the relationship between the claims is such that separately claimed subcombination B<sub>SP</sub> (feeder assembly embodied by elected Claim 13 (now Claim 43)) constitutes essential features of the combinations AB<sub>SP</sub> (“A” being the moveable platform assembly) as claimed, the inventions are examinable together. A requirement for restriction between elected subcombination claims and the combination claims would not be proper, even though the subcombinations may have separate utility. Hence, Group II - dependent Claims 29-36 (now Claims 48-55) should be examined together with Group I -

elected Claims 13-19 (now Claims 43-47) in the present application. Accordingly, examination of Group II - dependent Claims 48-55 (prior pending Claims 29-36) along with Group I - Claims 43-47 (prior pending Claims 13-19) in this application is respectfully requested.

Claims 13-19 have been rejected under 35 USC 102(b) as being anticipated by Moltrasio et al., by Willits et al., by Swaneck, by Leu, by Focke et al., and by Stauber. For the following reasons, the 102(b) rejections are respectfully traversed.

The cited references each differ in both structure and function from Applicants' feeder assembly, do not disclose the same elements ("identity of invention") as Claims 13-19, and thus do not anticipate Claims 13-19 under the law pertaining to 35 U.S.C. §102. For example, the suction devices in Willits et al., Swaneck, Leu, Focke et al., and Stauber do not completely separate the item from the stack as does Applicants' claimed lifting mechanism (see Claim 43). Further, Moltrasio et al. utilizes a plurality of unsticking bars, distinct from the lifting mechanism, to separate items, while it is Applicants' lifting mechanism which separates the items (see Claim 43).

Nonetheless, Applicant has rewritten Claim 13 as new Claim 43 which incorporates, *inter alia*, the limitations of prior pending Claims 15 and 19. Further, Claims 14 and 16-18 have been amended and rewritten as new Claims 44-47. Additionally, new Claims 56-62 have been added to more particularly point out and distinctly claim Applicants' feeder assembly over the cited prior art.

Specifically, Claim 44 (rewritten amended Claim 14) now claims a plurality of sensors. New Claim 56 claims that the separator element (of Claim 46, previously Claim 17) is positionable between a first position and a second position to impart varying

degrees of distortion to the item being lifted by the lifting mechanism. New Claim 57 claims that one of the plurality of sensors is a lifting mechanism extended sensor for sensing when the lifting mechanism is in the engagement position. New Claim 58 claims that one of the plurality of sensors is a lifting mechanism retracted sensor for sensing when the lifting mechanism is in the lifted position. New Claim 59 claims that one of the plurality of sensors is a gripping mechanism extended sensor for sensing when the gripping mechanism is in the item grasping location and for signaling to the gripping mechanism to grasp the item from the lifting mechanism. New Claim 60 claims that one of the plurality of sensors is a gripping mechanism release sensor for sensing when the gripping mechanism is proximate the item release location and for signaling to the gripper mechanism to release the item. New Claim 61 claims that one of the plurality of sensors is a gripping mechanism retracted sensor for sensing when the gripping mechanism is in the home location and for signaling to the feeder assembly that the gripping mechanism is ready to start a new feed cycle. New Claim 62 claims that the jaw (of Claim 47, previously Claim 18) includes a sensor for sensing that an item is within the jaw. It is also noted that Claims 43-55 (prior Claims 13, 14, 16-18 and 29-36) have been rewritten to replace the term "mailpiece" with the term -- item -- so as not to be construed in an overly limiting manner.

It is respectfully submitted that none of the prior art of record, either alone or in combination, fairly teaches, suggests or discloses the novel and unobvious features of Applicants claims as presented herein. Accordingly, Applicant respectfully asserts that the claims as presented herein are now in condition for allowance. An early notice allowance is respectfully requested.

Any arguments of the Examiner not specifically addressed should not be deemed admitted, conceded, waived, or acquiesced by Applicants. Any additional or outstanding matters the Examiner may have are respectfully requested to be disposed of by telephoning the undersigned.

A Petition for a one month extension of time is enclosed.

A Form PTO-2038 in payment of the extension fee is enclosed. The Commissioner is hereby authorized to charge any additional fees which may be required, including the extension fee if there is any problem with the credit card payment, to Deposit Account No. 16-0657.

A postcard is enclosed evidencing receipt of the same.

Respectfully submitted,

**PATULA & ASSOCIATES, P.C.**

A handwritten signature in black ink, appearing to read "C. T. Riggs Jr.", written in a cursive style.

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